

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ORLAN CHARLES HORNE,

Plaintiff,

vs.

ACE LTD; *et al.*,

Defendants.

Case No. 2:12-cv-01142-JCM-GWF

ORDER

Motion for Reconsideration (#42)

This matter comes before the Court on Defendants ACE INA Holdings, Ace American, Illinois Union, and Westchester Surplus Lines' ("Defendants") Joint Motion for Reconsideration (#42), filed on December 21, 2012. Plaintiff filed a timely Response (#44) on January 3, 2013. Defendants filed a timely Reply (#47) on January 9, 2013.

Plaintiff filed a Motion for Service via Diplomatic Channels under Rule 4(f)(1) (#38) on December 11, 2012, arguing Plaintiff could not serve Defendant ACE Seguros ("ACE") in any other manner. After considering Plaintiff's pleading paper and the applicable law, the Court granted the motion on December 19, 2012. *See Doc. #41*. Defendants now move for reconsideration of the Order (#41) permitting service via diplomatic channels.

Federal Rule of Civil Procedure 60(b)(6) permits the Court to relieve a party from an order where the party demonstrates circumstances which rendered it unable to prosecute its case. *Cnty. Dental Services v. Tani*, 282 F.3d 1164, 1168 (9th Cir. 2002). Defendants argue they are entitled to relief from the Court's Order (#41) because it was issued before Defendants filed a response. Defendants oppose Plaintiff's request to serve ACE via diplomatic channels arguing that it would delay resolution of pending dispositive motions, and that Plaintiff has filed the same claims against ACE in Argentina.

1 Plaintiff responds that Defendants previously argued ACE was “the only [entity] even
2 potentially relevant to Plaintiff’s underlying lawsuit[.]” *See, e.g. Doc. # 8* at 3:13-14. Plaintiff also
3 represents the alleged action against ACE in Argentina was merely an unsuccessful attempt at
4 mediation. The Court finds that service to ACE via diplomatic channels will neither prejudice the
5 other Defendants nor delay rulings on their pending dispositive motions. Furthermore, after ACE is
6 served, personal jurisdiction and *forma non conveniens* defenses will still be available to
7 Defendants. Accordingly,

8 **IT IS HEREBY ORDERED** that Defendants’ Joint Motion for Reconsideration of the
9 Order Granting Plaintiff’s Motion for Service of Process via Diplomatic Channels (#42) is **denied**.

10 DATED this 15th day of January, 2013.

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13 GEORGE FOLEY, JR.
14 United States Magistrate Judge
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